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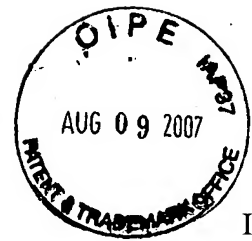
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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)	
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		10/030,798	May 9, 2002
		First Named Inventor	
		Oscar Salonaho	
		Art Unit	Examiner
		2618	Dean, Raymond S.
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal.			
The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the		<u><i>Walter J. Malinowski</i></u> Signature	
<input type="checkbox"/> applicant/inventor.		Walter J. Malinowski Typed or printed name	
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)		(203) 925-9400 Telephone number	
<input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>43,423</u>		August 6, 2007 Date	
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____			
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			

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IN THE U.S. PATENT AND TRADEMARK OFFICE

In re U.S. Patent Application of:

APPLICANT: Salonaho, et al.

SERIAL NO.: 10/030,798 FILING DATE: May 09, 2002

EXAMINER: Dean, Raymond S. ART UNIT: 2618

ATTORNEY'S DOCKET NO.: 019B.0024.U1(US)

TITLE: A METHOD OF SELECTING A NEW CELL

PRE-APPEAL BRIEF REQUEST FOR REVIEW ATTACHMENT

The following is a concise recitation of a clear error in the Examiner's rejections in this application.

1. In the final Office Action of April 4, 2007, the Patent Office rejected claims 1-3, 7-9, 11-22, 29, 33, 34, 46, 47, 51-57, 61-69, 73-82, 86-95, 99-110, 114-126, 130-143, 147-160, and 163-178 under 35 U.S.C. §103(a) as being unpatentable over Charbonnier, U.S. Patent No. 5,241,686, in view of Crichton, U.S. Patent No. 5,722,072.

Also, the Advisory Action dated June 25 2007 asserts "Charbonnier and Crichton both teach measuring the strength of cells to determine handover candidates. Crichton additionally teaches the feature of measuring the signal strength for a particular time period. Since both Charbonnier and Crichton teach the feature of measuring signal strengths to determine handover candidates Charbonnier can be modified without significant modification. Modifying Charbonnier with Crichton provides a system in which reliable handoff can occur in a dense population of users, which is the motivation that comes from Crichton."

Claim 1, as an example of the pending claims, recites as follows:

A method comprising: measuring at the station the strength of a communication from the current cell; measuring at the station the strength of a communication from at least one other cell; decoding a communication from at least one of the current cell and the at least one other cell to obtain offset information; **modifying the measured strength of the communication from the at least one of the cell and the at least one other cell in dependence on the**

obtained offset information; comparing the measured strength of the communication from the current cell and the measured strength of the communication from the at least one other cell after the modifying; measuring a duration of time for which the measured strength of the communication from the at least one other cell exceeds the measured strength of the communication from the current cell during said comparing; and changing the current cell with which the station is associated, wherein the current cell is changed only if the measured duration of time is at least a predetermined time period.

Charbonnier is directed to a threshold-based method using correction parameters to prevent excessive switching between cells. In Charbonnier, a hysteresis threshold e_k (column 10, lines 55-63) is used in addition to a delta load differential δ (determined by factors including normal traffic load) to derive the correction parameter H_k which is used to avoid oscillating between cells (column 11, lines 31-33; also, see Figure 9, comparison means 133).

Crichton is directed to a time based method using the absolute signal strength (column 5, lines 39-42). In Crichton, the received signal parameters are compared not to signal parameters of other cells, but to a variable threshold value (column 3, lines 42-50). A candidate list of handover cells is prepared of those cells whose signal strength exceeds a threshold for a timer value (column 4, lines 40-52) to alleviate the number of handovers that would be required in a short amount of time (column 3, lines 28-31).

Charbonnier discloses field correction parameters. Crichton's solution does not. Charbonnier discloses a hysteresis value that reduces the number of handovers between cells. In an alternative solution to Charbonnier's, Crichton uses a timer to measure a signal a candidate cell against an absolute threshold. To eliminate the hysteresis value e_k (for computing a correction parameter) and, in its place, to put in Crichton's timer would be counter to the spirit of the invention of Charbonnier. Said another way, modifying Charbonnier to eliminate a hysteresis value e_k (used to determine correction parameter

H_k) from its teachings is a teaching away from Charbonnier.

Alternatively, to add a timer to Charbonnier adds redundancy and is thus against the spirit of Charbonnier as it adds to the complexity Charbonnier considers a drawback (column 1, line 68, through column 2, line 7). Yet, adding a timer where a timer is not needed is what the Patent Office proposes to do in attempting to modify Charbonnier by Crichton.

This attempted combination is clear error on the part of the Patent Office.

Charbonnier discloses modifying a measured signal by a correction parameter and comparing a modified measure signal to another modified measured signal where the correction parameter includes a hysteresis value that prevents unnecessarily frequent handovers. Crichton discloses comparing a signal to an absolute threshold value and determining if the signal exceeds the absolute threshold value for a determined time to prevent unnecessarily frequent handovers. **Charbonnier and Crichton offer different solutions to unnecessary frequent handovers.**

Stated another way and in further depth, Applicant believes, as discussed before, that the patents cited by the Patent Office are not combinable as there is no motivation for one of ordinary skill in the art to do so. Arguendo (and not admittedly), even if the documents were to be combined not all of the features of the claims would be disclosed by such a combination.

See page 20, line 17, through page 21, line 24, of the response filed June 4, 2007.

Furthermore, see page 21, line 29, though page 30, line 22, of the response filed June 4, 2007.

2. In the final Office Action of April 4, 2007, the Patent Office rejected claims 4-6, 23, 24, 31, 32, 35-37, 48-50, 58-60, 70-72, 83-85, 96-98, 111-113, 127-129, and 144-146 under 35 U.S.C. §103(a) as being unpatentable over Charbonnier, U.S. Patent No. 5,241,686, in view of Crichton, U.S. Patent No. 5,722,072, and further in view of Karlsson, U.S. Patent No. 5,640,677.

Karlsson discloses best server selection in layered cellular radio systems (e.g., column 3, lines 41-55; column 9, lines 45-58; column 11, lines 55-61).

Charbonnier, the base reference, teaches away from complexity (see, e.g., column

1, line 68, through column 2, line 1). Karlsson introduces complexity not found in Charbonnier. One of ordinary skill would not seek to modify Charbonnier by Karlsson because Charbonnier considers complexity a drawback and Karlsson's solution is complex.

Furthermore, Charbonnier only discloses two types of threshold: a nominal traffic load threshold and a hysteresis threshold (column 9, lines 48-50), neither of which would relate to a threshold to compare to a measured signal strength. In Charbonnier, there is no need for any other threshold because Charbonnier calculates a corrected field for each cell and selects the cell having the highest corrected field (column 6, line 59, through column 7, line 11). Charbonnier, in fact, expresses no motivation to make a more complicated arrangement as evidenced by "The regulating process is more simple and operates with long-time constants as compared to the cell transfer process according to the prior art" (column 3, lines 11-13).

Accordingly, **the attempted modification by Charbonnier by Crichton and Karlsson is clear error.**

Thus, claims 4-6, 23, 24, 31, 32, 35-37, 48-50, 58-60, 70-72, 83-85, 96-98, 111-113, 127-129, and 144-146 are allowable.

The Patent Office is respectfully requested to reconsider and remove the rejections of the claims 1-9, 11-24, 29, 31-37, 46-160, and 163-178 under 35 U.S.C. 103(a) based on Charbonnier in view of Crichton or Charbonnier in view of Crichton and Karlsson, and to allow all of the pending claims 1-9, 11-24, 29, 31-37, 46-160, and 163-178 as now presented for examination. An early notification of the allowability of claims 1-9, 11-24, 29, 31-37, 46-160, and 163-178 is earnestly solicited.

Serial No.: 10/030,798 Request for a Pre-Appeal Brief Conference
Art Unit: 2618

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August 6, 2007
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